

### REMARKS

Applicant respectfully requests reconsideration of this application. Claims 1-30 are pending. Claims 1-30 are rejected.

#### Right of Assignee to Take Action

As documentary evidence under 37 C.F.R. § 3.73(b)(1) the assignment of the entire right, title, and interest in and to the above referenced patent application, having a recordation date of January 12, 2004, can be found at Reel/Frame: 014876/0408.

An Assignment and a Declaration and Power of Attorney with respect to the above identified patent application were duly executed by all of the living joint inventors but not by the following joint inventor:

Hsien-Cheng E. Hsieh

2078 Yellow Aster Court

Gold River, CA 95670

who died on July 16, 2001 without executing the Assignment or the Declaration and Power of Attorney.

At the time the invention was made through the time the present application was filed, the above identified assignee was the regular employer of Mr. Hsieh and Mr. Hsieh was under an obligation to assign his inventions to the above identified assignee.

The legal representative of the deceased inventor has not elected to intervene in the above referenced application. Mr. Hsieh's legal representative is his widow, Chien-Yu Huang. A Spousal Property Order from the Superior Court of California, County of Sacramento, was submitted on February 28, 2005, as proof of the authority of the widow, Chien-Yu Huang as the legal representative of the deceased joint inventor, Hsien-Cheng E. Hsieh. Ms. Huang has not responded to communications from the above identified assignee after diligent effort.

It is respectfully noted that the pending claims of the present application currently stand rejected under the judicially created doctrine of double patenting (based on *In re Sneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968)) with regard to four patents, each having Hsien-Cheng E. Hsieh as a joint inventor and each assigned to the above identified assignee.

The above identified assignee respectfully requests the right, under 37 CFR §1.47, to prosecute the present application as Applicant on behalf of the joint inventors including the nonsigning legal representative of the deceased joint inventor. A separate petition and the fee set forth in §1.17(h) are concurrently submitted.

#### Double Patenting Rejections

The Office Action mailed on December 26, 2004, rejects claims 24-73 under the judicially created doctrine of double patenting for allegedly extending the right to exclude subject matter claimed by Claim 1 of US Patent No. 6266769, 6263426, 6292815, and Claim 14 of US Patent No. 6247116.

Accordingly, Applicant respectfully submits herewith as a separate paper a Terminal Disclaimer under 37 CFR §1.321(c) to overcome the rejection. Applicant also respectfully notes that not all of the subject matter claimed in the present application is disclosed by any one of the cited patents.

Applicant respectfully submits the present application is in condition for allowance and such action is earnestly solicited.

#### Submission Under 37 C.F.R. § 3.73(b)(2)

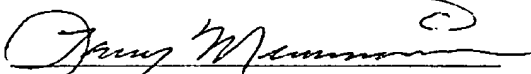
The undersigned attorney or agent represents that the undersigned attorney or agent is authorized to act on behalf of the assignee of the above-referenced patent application.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 4-26-05

  
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